

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DALE R. EALY,

Petitioner,

v.

ORDER
06-CV-218A

SUPERINTENDENT OF GROVELAND
CORRECTIONAL FACILITY,

Respondent.

The above-referenced case was referred to Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b)(1)(B). On December 3, 2009, Magistrate Judge Bianchini filed a Report and Recommendation, recommending that petitioner's petition for a writ of habeas corpus be dismissed with prejudice.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Bianchini's Report and Recommendation, petitioner's petition for a writ of habeas corpus is dismissed with prejudice.

The Court finds that petitioner has failed to make a substantial showing of the denial of a constitutional right and therefore denies his motion for a certificate of appealability. 28 U.S.C. § 2253(c)(2).

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: January 8 , 2010